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Approved For Release 2002/06/28 : CIA-RDP78-04718A002800040016-2

JOB SECURITY

JOB SECURITY AND REDUCTION IN FORCE

1. PROBLEM

To determine whether additional legislation is required by the Agency with respect to establishing the job security of career employees and to conducting necessary reductions in force.

2. ASSUMPTIONS

a. It is the Agency's objective to develop and maintain a group of dedicated people who are carefully selected and progressively trained, who desire to devote themselves permanently to the needs of the intelligence service of the U. S. Government, who enjoy the satisfaction of a job well done, who look forward to the emoluments and benefits appropriate to such service, and who have the expectancy of a permanent career in CIA.

b. Career employees of the Agency will not be affected by reductions in force until all practicable reductions have been accomplished among other categories of personnel.

c. Such external review of the Agency's personnel activities as would reveal intelligence methods and sources is undesirable.

d. The Director would use his authority under section 102(c) of the National Security Act of 1947 to separate any employee when necessary to avoid the risk of such outside review as would reveal intelligence sources and methods.

3. FACTS BEARING ON THE PROBLEM

a. The size of certain career organizations in the Federal structure (for example, military services, Foreign Service, and permanent civil service employees) is periodically established by legislative limitations.

b. Agency Regulation [redacted] paragraph 2a(1) states that "the size of this career staff (i.e., the CIA career staff) will be determined by the long range needs of the Agency rather than by its more variable temporary requirements."

c. The provisions of the Veterans Preference Act and its implementing procedures apply to personnel activities of the Agency.

d. The Director has authority under section 102(c) of the National Security Act of 1947 to separate any employee of the Agency when he determines that such action is in the national interest.

4. DISCUSSION

a. Job security has been considered to mean an employee's expectancy of a long term career in the Agency. This expectancy should be limited only by the possibility of:

- (1) Resignation or death of the individual;
- (2) Failure on the part of the individual to meet Agency requirements for performance, conduct, security or health; or
- (3) A necessary reduction in force.

The concept of job security is inconsistent with frequent fluctuations in the size of a career group, since they depend in large part upon the extent to which the size of that career group conforms to the long range needs of the organization at any given time.

b. Although the size of career organizations in the Federal structure is sometimes established by legislative action, such action requires Congressional review of the manpower plans and requirements of the organization and permits the possible introduction of political considerations in such determinations. Further, since any change in the maximum limitation established by statute must be effected by amendment of the statute, the heads of such career organizations have no latitude with respect to increasing the stated limitation without submitting appropriate justification for Congressional review. The undesirability of submitting Agency manpower plans and requirements to Congressional and public scrutiny would seem to offset any advantage which might be gained through the establishment of statutory limitations on the size of the Agency's career staff.

c. The Agency's objective of retaining dedicated career employees would not be served by policies which would retain any individual who lacks an active personal interest in an Agency career. Nor would this objective be served if separations of career employees were arbitrary or frivolous. The continued association of a career employee with the Agency is of advantage both to the Agency and to the individual. A decision to terminate this association should be of at least as great importance as a decision to establish such a relationship. Therefore, it should be reached only after careful consideration of all pertinent facts both by the Agency and by the individual concerned. The decision to terminate a career employee should be made by a central authority established to make such decisions or by the Director. Under present Agency practice, this central authority is carried out by the Director in the exercise of his authority under P.L. 253, 102(c) and in cases within the scope of Executive Order 10450, and in all other cases by the Assistant Director (Personnel). All decisions to terminate are made with consideration of the advice of appropriate Agency officials.

d. It follows that internal control is necessary to insure, at the Agency level, that all pertinent facts have been impartially considered before a decision to separate a career employee is made. It has been argued that such controls are restrictive and burdensome to operating officials by requiring them to justify their separation proposals to the satisfaction of a central Agency authority. Nonetheless such controls are essential in a career service. It should not be "easy" to separate a career employee. The Agency's policies and procedures for the separation of employees have been consolidated and recently coordinated throughout the Agency. Although

the right of veteran preference employees to appeal separations to the Civil Service Commission conflicts with the general principle expressed in Assumption 2c above, experience indicates that undesirable disclosure of intelligence sources and methods can be avoided through exercise of the Director's special authority. (See Annex A)

e. The special status accorded veteran preference employees in reductions in force is in some conflict with a merit concept. (See Annex B)

f. It would be unsound for the Agency to propose legislation to amend the Veterans Preference Act as it relates to reduction in force and appeals for the following reasons:

(1) The limitations imposed by the Act do not seriously interfere with Agency operations;

(2) It would be extremely difficult, if not impossible, to present justification which would withstand public scrutiny without disclosure of clandestine activities; and,

(3) It is impossible that any such request would be favorably received in view of current political considerations as they might be expected to influence the Administration, the Congress, and the public.

5. CONCLUSIONS

a. Legislative action to establish maximum limitations on the size of the career staff is neither necessary nor desirable. Such limitations should be administratively imposed by the Director.

b. The Agency's Regulations governing separations are adequate for all types of separations except an extensive and general reduction in force and do not require additional legislation for effective implementation.

c. The Agency should not seek legislative exemption from the Veterans Preference Act.

ANNEX A

Outside Appeals

The Veterans Preference Act establishes the right of Agency employees with veteran preference to appeal separation actions to the U. S. Civil Service Commission. This right conflicts with the principle that external review of the Agency's personnel activities is undesirable. Although the Director's special authority might be used to avoid the possibility of external review of all separation actions, it has been the practice of the Director to employ this special authority only in those cases involving sensitive information and in certain cases involving personal misconduct or indiscretion. It appears that this practice has been satisfactory in avoiding undesirable disclosure of information through employee appeals outside the Agency.

The Agency has not yet used reduction in force procedures as prescribed by the Veterans Preference Act, although it has encountered reduction in force problems, some of them severe, in certain units. Those separation cases which have offered the possibility of appeal to the Civil Service Commission have involved consideration only of the employee's performance in his position or his conduct. Appeals from reduction in force actions are not concerned solely with a particular individual but may involve information concerning other employees and a range of Agency activities. Although selective use of the Director's special authority, as described above, would solve the outside appeal problem in reduction in force actions, the citation of this authority might reflect unfavorably upon the individual so separated. Nevertheless, it would seem that the need to protect sensitive information must be given primary consideration.

Tab H1

ANNEX B

Reduction in Force

The special status accorded veteran preference employees in reduction in force would be in some conflict with a merit system in this Agency or in any other organization. However, it must be recognized that veterans preference was given in recognition of the Nation's obligation to these individuals. It was not designed to further the effectiveness of Government operations. Briefly, the Veterans Preference Act provides that individuals who have performed active military service in certain emergency periods and certain members of their immediate families (widows, dependent mothers, or wives of seriously disabled veterans) will be granted special consideration in reduction in force. The rulings of the Civil Service Commission which administers the Act have the force of law and are binding on CIA. This consideration extends to a prohibition against the retention of a non-veteran preference employee in any position for which the veteran preference employee is qualified, unless it can be demonstrated to the satisfaction of the Civil Service Commission that the retention of the non-veteran is justified on the basis of the "efficiency of the service".

Reduction in force regulations under the Veterans Preference Act provide that employees will compete for retention within groups established by the Agency in consideration of geographic and organizational factors as well as by occupation and grade. The manner in which the Agency established retention groups would be subject to review by the Civil Service Commission in connection with its consideration of individual appeals.